REMARKS

Careful consideration has been given to the Official Action of November 20, 2007 and reconsideration of the application as amended is respectfully requested.

CLAIM STATUS

Claims 1-37 and 54-57 are withdrawn as directed to a non-elected invention.

Claims 38-45 and 58 are rejected under 37 USC.102 as anticipated by Medoff (5,709,682).

AMENDMENTS

SPECIFICATION

Paragraph [00055] has been amended to correct an error in identifying bone fragment 4.

CLAIMS

Claims 38-45 and 54 have been amended to delete "volar" in the preamble in order not to unnecessarily limit the buttress pin. This is consistent wit the disclosure in paragraph [00052] where other bone fixations are noted.

Claims 41 and 42 have been amended to clarify the term "said legs" in response to the Examiner's comments. Claims 59 and 60 have been added and are included in the elected invention.

ARGUMENT FOR PATENTABILITY

Before discussing patentability, the Examiner's contention that claim 58 is not a linking claim is respectfully traversed. Claim 58 adds the limitation addressed to the

washer and if claim 58 is ultimately allowed, combination claims to the non-elected invention of the fracture fixation system will then warrant allowance. In fact since the Examiner has acted on claim 58 on the merits, claims to the fracture fixation system warrant consideration at this time.

Claim 38 is drawn to a buttress pin comprised of a single wire element as shown for example in Figs 3 and 5 and installed with a buttressing function in Figs 1 and 2. The pin has a U-shaped band 13 and opposite legs 14, 15 extending from the band. The distal ends are bent away out of the plane of the U-shaped bend to form bent ends 16, 17 forming radial buttressing elements for internally bearing against and supporting bone surface 18 of the articular distal end of bone fragment 4 (See [00055] and Fig 1. The legs are spaced apart in a first region proximate the U-shaped bend which is different from the spacing of the legs in the region of the bent ends 16 and 17 (see Figs 1, 3 and 5).

The cited Medoff patent discloses a two-part clamp which functions in a totally different manner to set the fracture. Namely, Medoff provides a first part to engage the fragment from the outside and a seeped part to engage the fragment from the inside. See for example, outside part 13 with parallel legs and inside part II (leg with bend). The Examiner refers to the U-shaped buttressing part 41 in Figs 2-4. this part has parallel legs (Fig 2) and bend away ends 49. The legs 41 are parallel and equally spaced. The examiner also refers to the U-shaped clamping part with parallel legs 13. These legs are parallel with equal spacing (Fig 9). They are not relevant to the invention as they serve no buttressing function and only clamp the fragment from the

outside superficial surface against the inside buttressing part 11.

Stated simply the legs 11 and 13 are parts of two different elements i.e. the buttressing element and the clamping element. The legs of the buttressing element are parallel and equally spaced as previously noted and the leg 11 is a single leg unrelated to legs 13 of the separate clamping member. The same comments apply to Figs 24 and 25. Also, the legs 77 in Figs 24 and 25 of the buttressing member are parallel and equally spaced (Figs 23, 26). The Examiner seems to have looked at Figs 7, 24, 28, etc and considered one leg to have been bent away from another when in fact these legs are parts of different bodies.

In actual practice, the device in Figure 9 in Medoff shows this is cumbersome to install, since the surgeon has to first implant the 'second part' 11 (as described in this patent), then apply the 'first part' 13 over it and then hold everything in place while he drills a hole, measures it, places a washer and inserts a screw. The implant in claim 38 does not have a first and second part, but is rather a single structural form, and so is completely distinct from the combinations of two wire forms shown in figure 9. It is simple to adjust the relative length or separation of a second wire form (second part) in relation to a first wire form (first part) by simply placing it in a different relative location prior to fixation. However, it is not intuitively obvious how one could modify the single component wire form shown in figure 2 in Medoff if the legs needed to be placed closer together (for instance, to avoid friction with nearby tendons), or if one leg needed to be longer than the other. The surgeon cannot simply bend one leg toward the other since it shifts the alignment of the buttressing portion away from the

joint surface. These implants have to be pre-made in the desired form to accomplish either or both of these goals.

The Examiner goes on to say that tabbed portions 15 engage the bone fixedly, but claim 38 says that the legs are bent to buttress a surface of the bone. The tabbed portions 15 could not be used to buttress the enclosed surface of the articular fragment which is what the buttress pin is designed to do.

Finally, (and this is important even though previously discussed) the Examiner goes on to state that fig 24 shows legs in two separate regions that have different spacing. But this describes spacing between two distinct wire form elements, not spacing on the same wire element.

These are very real surgical problems that cannot be handled by simply bending the existing wire forms. The offset buttress pin with one leg longer than the other allows the surgeon to support an articular fragment that is not oriented perpendicular to the long axis of bone, but slopes to one side. The offset buttress pin that changes width not only broadens the buttressing area with a narrow bone attachment but also allows two separate implants to be placed side by side, allowing a widespread near the joint surface where the bone gets wider and still allows positioning of both implants over the shaft proximally where the bone is narrower. This cannot be done with any of the implants shown in the previous patent, and the significant difference that these are two separate wire forms, one inside the bone and one completely outside of the bone making this a totally distinct implant.

CONCLUSION

For the above reasons, it is respectfully submitted that the rejection is not longer applicable to the claims and allowance thereof is respectfully requested.

Respectfully submitted,

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